

Amendment to the Drawings

The attached drawing sheet includes changes to Fig. 1. This sheet, which includes Fig. 1 and 2, replaces the original sheet including Figs. 1 and 2. In Fig. 1, a can body 38, and propellant and aerosol product 39, are added.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Election/Restriction

Applicant notes the Office Action comments concerning claims 12-14 and 23-26. As claims 12-14 and 23-26 are dependent from currently examined claims 1 and 22 (respectively), claims 12-14 and 23-26 should be rejoined in the application once claims 1 and 22 are found allowable.

Drawings

Fig. 1 is amended to include a can body and propellant plus aerosol. Support is found in original paragraph [0004] of the published application US 2007/0272765.

The Office Action indicates that the “valve” recited in claims 1 and 27 is not shown in the drawings. Figures 1-7 each refer to a “valve” by reference number 4, however, so the drawings do show this feature of the claims.

Also, paragraph [0004] is amended to include reference numbers to the can body and propellant plus aerosol.

These amendments address the Drawing objections.

Claims

Claims 1-28 are pending. Claims 1, 8, 21, 22, 27 and 28 were examined in the Office Action. Claims 2-7, 9-20 and 23-26 are currently withdrawn.

New claim 29 is added. The new claim is a combination of claims 1 and 8.

Claim 8 is amended to clarify that the adjustment device comprises the rotatable cylindrical element. Claim 8 is also amended to clarify that the lateral bore comprises two ends. Support is found in the figures and in original claim 8. In addition, the term “one” is added to recite “at least on one side.”

Similarly, claim 22 is amended to clarify that the adjustment device comprises the rotatable cylindrical element and the lateral bore comprises two ends.

Claim 27 is amended to depend from claim 22. Also, claim 27 is amended to clarify that the aerosol can includes a nozzle, and that the can comprises a propellant and a material to be sprayed.

Objection to Claim 27

Claim 27 is amended to depend from claim 22. As such, the preamble to claim 27 is not inconsistent, and the objection to Claim 27 is moot.

Section 112, First Paragraph

The objection to claims 27 and 28 under written description is respectfully traversed. Current claim 27 recites a can including a nozzle. As pointed out in paragraph [0004] of the published application, various embodiments include a body, a valve, and a spray head. Further, paragraphs [0016] and [0040], and Fig. 6, describe embodiments of the spray head having various nozzles. Thus, support for a can including a nozzle is found in the original specification and figures. As such, claims 27 and 28 satisfy the written description requirement.

Section 112, Second Paragraph

Claims 8 and 22 are amended to clarify that the adjustment device comprises the rotatable cylindrical element, and that the lateral bore comprises two ends. The Section 112, second paragraph objections to these claims is thus moot.

Claim 27 is amended to depend from claim 22. Also, the amendments to claim 27 clarify that the aerosol can includes a nozzle, and that the can comprises a propellant and a material to be sprayed. The indefinite and double inclusion objections, and the objections to the "valve" feature, are thus moot.

Current claim 27 recites a can including a nozzle. Thus, the objection to this claim for reciting "consisting of" is moot.

Section 102 and 103

The rejection of claims 1, 8, 21, 22, 27 and 28 as anticipated or obvious in view of Martini (U.S. Patent No. 3,961,756) is respectively traversed.

Martini fails to describe all features of the claims. For example, although Martini shows an axial as well as a lateral bore hole, Martini fails to disclose a cylindrical element overlapping the axial bore only slightly. More importantly, Martini is silent as to providing the cylindrical element at least on one side with a bevel or rounding which enables a flow passage extending from the axial bore to the lateral bore to be cleared if the bevel or rounding is positioned over the axial bore by suitably turning the cylindrical element.

Furthermore, Martini does not disclose an adjustable spray mechanism for adjusting the amount of material to be sprayed out. Instead, the adjustment device of Martini is constructed for causing a swirling action of the fluid flow. The relative position of the nose means 35 to the end wall means 23 influences the degree of swirl or vortex-like flow, and therefore the cone spray angle. For example, upon retraction of valve body 9 toward the orifice 13 there results an increasingly diffused and dispersed spray pattern; while advancement of the valve body to a position remote from the orifice 13 results in emission of the fluid in a most concentrated and linear pattern (cf. col. 3, l. 46-65). In other words, it is not the amount of fluid to be sprayed out that will be adjusted but rather the spray pattern (diffused or concentrated).

One reason for this difference between the current claims and the Martini reference can be seen in the current application where a narrow flow passage is adjusted by the rotatable cylindrical element (for example, see Fig. 4, element 18). This means that the amount of fluid is adjusted. In contrast, the most narrow flow passage in Martini remains constant while the swirl chamber is adjusted.

Martini fails to describe all features of the claims. As such, claims 1, 8, 21, 22, 27 and 28 are neither anticipated nor obvious.

New claim 29 is a combination of claims 1 and 8. For at least the foregoing reasons, claim 29 is neither anticipated nor obvious.

In view of the foregoing amendments and remarks, Applicant submits that the present claims are in condition for allowance. A Notice of Allowance is therefore respectfully requested.

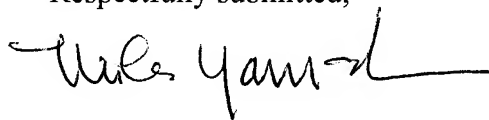
A Petition and Fee for a 2 month extension of time is being submitted herewith.

If required, please charge an excess claim fee of \$52 for new claim 29 and an independent claim fee of \$220 for new claim 29 to Deposit Account No. 50-3881, under Order No. 7472-104.

No other fee is believed due. However, the Commissioner is hereby authorized during prosecution of this application and any related appeal, to charge any fees that may be required (except for patent issue fees required under 37 CFR §1.18) or to credit any overpayment of fees to Deposit Account No. 50-3881, under Order No. 7472-104. If an additional extension of time is required in connection with this paper, please consider this a Petition therefor and charge any fees required to Deposit Account No. 50-3881, under Order No. 7472-104

Dated: February 16, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Miles Yamanaka", with a long horizontal stroke extending to the right.

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